असा. क्र. ५५ रजिस्टर्ड नं. टीईसीएच/४७-३०३/एमबीआय/२००३-०५



महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

गुरुवार, मे २६, २००५/ज्येष्ठ ५, शके १९२७

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Essential Services Maintenance Act, 2005 (Mah. Act No. XXVIII of 2005), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra.

A. M. SHINDEKAR,
Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XXVIII OF 2005.

(First published, after having received the assent of the President, in the "Maharashtra Government Gazette", on the 26th May 2005.

An Act to provide for the maintenance of certain essential services and the normal life of the community; and to provide for matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for maintenance of certain essential services and the normal life of the community ; and to provide for matters connected therewith or incidental thereto; it is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :—

1. (*1*) This Act may be called the Maharashtra Essential Services Maintenance Act, 2005. Short title, extent, commencement and duration.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and shall cease to have effect on the expiry of five years from the said date except as respects things done or omitted to be done before such cesser of operation of this Act ; and section 7 of the Bombay General Clauses Act, 1904, shall apply upon such cesser of operation of this Act as if it had then been repealed by a Maharashtra Act. Bom. I of 1904.

Definitions. 2. In this Act, unless the context otherwise requires,—

(a) " essential service " means,—

(i) any transport service for the carriage of passengers or goods, by land or water, with respect to which the State Legislature has power to make laws ;

(ii) any service connected with the supply of gas or milk or water or electricity with respect to which the State Legislature has power to make laws ;

(iii) any service connected with the maintenance of public health and sanitation including hospitals and dispensaries ;

(iv) any public service, post and employment in connection with the affairs of the State and also persons appointed to the secretarial staff of both Houses of the State Legislature, and the officers and servants of the High Court ;

(v) any service or post in connection with the affairs of the local authorities ;

(vi) any other service, post, employment or class thereof, connected with matters in respect of which the State Legislature has power to make laws and when the State Government is of opinion that strike in such service, post, employment or class thereof would prejudicially affect the public safety or the maintenance of the supplies or services essential to the life of the community or would result in the infliction of grave hardships on the community, and which the State Government by notification in the *Official Gazette*, declares to be an essential service for the purpose of this Act ;

(b) "strike" means the cessation of work by a body of persons employed in any essential service acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so employed, to continue to work or to accept employment, and includes,—

(i) refusal to work overtime, where such work is necessary for the maintenance of any essential service ;

(ii) any other conduct, which is likely to result in, or results in, cessation or substantial retardation of work in any essential service ;

(c) words and expressions used in sections 5 and 6 and not defined herein but defined in the Industrial Disputes Act, 1947, shall have the meanings respectively assigned to them in that Act. 14 of 1947.

3. (*1*) Every notification issued under sub-clause (*vi*) of clause (*a*) of section 2 shall be laid before each House of the State Legislature, immediately after it is made, if it is in session, and on the first day of the commencement of the next session of the House if it is not in session and shall cease to operate at the expiration of forty days from the date of its being so laid or from the re-assembly of the State Legislature, as the case may be, unless before the expiration of that period, a resolution approving the issue of the notification is passed by both Houses of the State Legislature. Laying of notification before each House of State Legislature.

(*2*) Where any notification ceases to operate by or under sub-section (*1*), the cesser shall be without prejudice to anything done or omitted to be done before such cesser.

Explanation. Where the Houses of the State Legislature are summoned to re-assemble on different dates, the period of forty days shall be reckoned from the later of those dates.

4. (*1*) If the State Government is satisfied that in the public interest, it is necessary or expedient so to do, it may subject to the provisions of sub-section (*5*), by general or special order, prohibit strike in such essential service from such date as may be specified in the order. Power to prohibit strike in certain employments.

(*2*) An order made under sub-section (*1*) shall be published in such manner as the State Government considers best calculated to bring it to the notice of the persons affected by the order.

(*3*) An order made under sub-section (*1*) shall be in force only for six months from the date specified therein, but the State Government may, by a like order published in like manner, and subject to the provisions of sub-section (*5*), extend it for a further period not exceeding six months, if it is satisfied that in the public interest it is necessary or expedient so to do.

(*4*) Upon the issue of an order under sub-section (*1*) or sub-section (*3*),—

(*a*) no person employed in any essential service to which the order relates shall go or remain on strike ;

(*b*) any strike declared or commenced whether before or after the issue of the order, by persons employed in any such service shall be illegal.

(*5*) No order under sub-section (*1*) or sub-section (*3*) shall be made in respect of—

(*a*) persons appointed to the secretarial staff of the Houses of the State Legislature, except at the request of the Chairman of the Legislative Council and the Speaker of the Legislative Assembly ;

(*b*) officers and servants of the High Court, except at the request of the Chief Justice of the High Court.

5. (*1*) If the State Government is satisfied that in the public interest, it is necessary or expedient so to do, it may, by general or special order, prohibit lock-out in any establishment pertaining to any essential service specified in the order. Power to prohibit lock-outs in certain establishments.

(*2*) An order made under sub-section (*1*) shall be published in such manner as the State Government considers best calculated to bring it to the notice of the persons affected by the order.

(*3*) An order made under sub-section (*1*) shall be in force for six months only, but the State Government may, by a like order, extend it for a futher period not exceeding six months, if it is satisfied that in the public interest it is necessary so to do.

(4) Upon the issue of an order under sub-section (*1*) or sub-section (*3*), —

(*a*) no employer in relation to an establishment to which the order applies shall declare or commence any lock-out ;

(*b*) any lock-out declared or commenced whether before or after the issue of the order, by any employer in relation to an establishment to which the order applies, shall be illegal.

(*5*) Any employer in relation to an establishment who commences, continues or otherwise acts in furtherance of a lock-out which is illegal under this section, shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Power to prohibit lay-off in certain establishments.

6. (*1*) If the State Government is satisfied that in the public interest it is necessary or expedient so to do, it may, by general or special order, prohibit lay-off, on any ground other than shortage of power or natural calamity, of any workman (other than a *badli* workman or a casual workman) whose name is borne on the muster roll of any establishment pertaining to any essential service specified in the order.

(2) An order made under sub-section (*1*) shall be published in such manner as the State Government considers best calculated to bring it to the notice of the persons affected by the order.

(*3*) An order made under sub-section (*1*) shall be in force for six months only but the State Government may, by a like order, extend it for a further period not exceeding six months if it is satisfied that in the public interest it is necessary or expedient so to do.

(*4*) Upon the issue of an order under sub-section (*1*) or sub-section (*3*),—

(*a*) no employer, in relation to an establishment to which the order applies, shall lay-off or continue the lay-off of any workman (other than a *badli* workman or a casual workman) whose name is borne on the muster roll of such establishment, unless such lay-off is due to shortage of power or to natural calamity and any laying off or continuation of laying off shall, unless such laying off or continuation of laying off is due to shortage of power or natural calamity, be illegal ;

(*b*) a workman whose laying off is illegal under clause (*a*) shall be entitled to all the benefits under any law for the time being in force as if he had not been laid-off.

(*5*) Any employer in relation to an establishment who lays off or continues the laying off of any workman shall, if such laying off or continuation of laying off is illegal under this section, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Penalty for illegal strike.

7. Any person who commences a strike which is illegal under this Act or goes or remains on, or otherwise takes part in, any such strike shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees, or with both.

8. Any person who instigates or incites other persons to take part in or otherwise acts in furtherance of, a strike which is illegal under this Act shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both. Penalty for instigation.

9. Any person who knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both. Penalty for giving financial aid to illegal strike.

10. Any action taken under section 7, 8 or 9 shall not affect, and shall be in addition to, any action of a disciplinary nature or any consequence which may ensue, and to which any person may be liable by the terms and conditions of his service or employment. Action under section 7, 8 or 9 in addition to disciplinary action.

2 of 1974. 11. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any Police Officer may arrest without a warrant any person who is reasonably suspected of having committed any offence under this Act. Power to arrest without warrants and offences to be non-bailable.

(2) All offences under this Act shall be non-bailable.

Bom. XI of 1947. 14 of 1947. 12. The provisions of this Act or any order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Bombay Industrial Relations Act, 1946, the Industrial Disputes Act, 1947 or any other law for the time being in force. Act to override other laws.

शासकीय मध्यवर्ती मुद्रणालय, मुंबई